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York Life Ins. Co. v. Deer Lodge County, 231 U. S. 495. In the West Virginia case, the court carefully distinguishes the statute involved from the Florida law which was recently upheld, on the ground that that statute was merely a regulation of corporate business, and did not apply to individuals. *Ex parte Taylor*, 66 So. 292. In its application to individuals, the court held the statute bad as a deprivation of property without due process of law, a denial of the equal protection of the laws, and as an interference with interstate commerce. This view accords with the Iowa and Michigan decisions. *William R. Compton Co. v. Allen*, 216 Fed. 537; *Alabama & New Orleans Transportation Co. v. Doyle*, 210 Fed. 173. For a discussion of the principles involved in these cases, see 27 HARV. L. REV. 741.

CONSTITUTIONAL LAW — DUE PROCESS OF LAW — WAREHOUSE RECEIPT MADE CONCLUSIVE EVIDENCE. — A statute declared that a warehouseman should not be permitted to deny that the person to whom a warehouse receipt was issued was the owner of the grain represented by the receipt, and that possession of the receipt should be conclusive evidence of such ownership as far as the duties of the bailee were concerned. So. DAK. LAWS, 1903, c. 8. The defendant warehouseman pleads voluntary delivery to the true owner as a defense to an action by the holder of a warehouse receipt. At a previous hearing the court held that nothing but a surrender under legal process would be a defense under the statute. *Held*, that the statute, as construed, is constitutional. *Street v. Farmers' Elevator Co.*, 149 N. W. 429 (S. D.).

It is clear that the legislature may regulate the rules of evidence, and that this statute could not possibly be unconstitutional as an interference with the functions of the judiciary. Thus statutes declaring tax deeds *prima facie* evidence of the validity of the sale are universally upheld. *Marx v. Hanthorn*, 148 U. S. 172. It is equally clear that any change in the substantive law, whether labelled a rule of evidence or not, will be unconstitutional if it has the effect of taking property without due process of law. So a statute which, by making an independent fact conclusive evidence against a party, deprives him of the opportunity of having his rights determined in a court of law, is unconstitutional. *Meyer v. Berlandi*, 39 Minn. 438, 40 N. W. 513; *McCready v. Sexton*, 29 Ia. 356. See *Cairo & Fulton R. Co. v. Parks*, 32 Ark. 131, 145. But a statute which merely makes a deliberate contract act of a party operate as an estoppel against him, appears to be unimpeachable. *Orient Insurance Co. v. Daggs*, 172 U. S. 557; *Yazoo & M. V. R. Co. v. G. W. Bent & Co.*, 94 Miss. 681, 47 So. 805; *Peever Mercantile Co. v. State Mutual Fire Insurance Co.*, 25 S. D. 406, 127 N. W. 559. This seems to be the real nature of the statute in the principal case. As construed by the court it does not permit the warehouseman to defend by proving voluntary delivery to the true owner, but it still involves no real danger that the warehouseman will be deprived of his property without due process of law. *Street v. Farmers' Elevator Co.*, 33 S. D. 601, 146 N. W. 1077. It was, therefore, properly held constitutional. But see *Missouri, K. & T. Ry. Co. v. Simonson*, 64 Kan. 802, 68 Pac. 653; 16 HARV. L. REV. 141.

CONSTITUTIONAL LAW — IMPAIRMENT OF THE OBLIGATION OF CONTRACTS — CONTRACT BY STATE NOT TO EXERCISE THE RATE-MAKING POWER. — In pursuance of its statutory right to fix its own passenger and freight rates, a railroad contracted with the defendant to freight lumber at a special rate, so long as the defendant operated a certain mill. Subsequently, the Railroad Commission Act made it unlawful for any railroad to charge a greater or less rate than that required to be filed. The plaintiff thereupon filed a reasonable tariff, in excess of the contract rate. The plaintiff now sues to recover the filed tariff charges. *Held*, that the plaintiff may recover. *Minneapolis, St. P. & S. S. M. Ry. Co. v. Menasha W. W. Co.*, 150 N. W. 411 (Wis.).

A state cannot divest itself of those powers which it was created to exercise. See *Stone v. Mississippi*, 101 U. S. 814, 819. Hence any attempt to bargain away its governmental powers is futile, and not within the protection of the contract clause. *Newton v. Commissioners*, 100 U. S. 548; *Stone v. Mississippi*, *supra*. The rate-making power, whether it be regarded as within the broad scope of the police power, or as inherent in the power to regulate all business affected with a public interest, seems essentially governmental. See *Munn v. Illinois*, 94 U. S. 113, 125; *Railroad Commission Cases*, 116 U. S. 307, 325, 330; *cf.* 23 HARV. L. REV. 388. Accordingly, there is a strong presumption that no attempt to contract it away has been made. *Knoxville Water Co. v. Knoxville*, 189 U. S. 434; *Matthews v. Board of Corporation Commissioners*, 97 Fed. 400. Thus the legislation in the principal case was construed as an authority to the railroad to fix its own rates, revocable at the pleasure of the state. Hence the defendant's contract was subject to this reserved power of revocation. *Louisville & Nashville R. Co. v. Motley*, 219 U. S. 467. A similar case, where the state had delegated to a municipality merely the power to grant such authority to a street railway, must be distinguished on the ground that an attempted revocation by the municipality exceeded the powers delegated to it by the state. *Detroit v. Detroit Citizens' Street Ry. Co.*, 184 U. S. 368. A more difficult problem arises where there has been a deliberate attempt by the state to bargain away the rate-making power. But so long as this power is regarded as governmental any such contract should be deemed ineffective, in spite of the contract clause, to prevent subsequent rate legislation. *Laurel Fork R. Co. v. Transportation Co.*, 25 W. Va. 324; *contra*, *Pingree v. Michigan Cent. R. Co.*, 118 Mich. 314, 76 N. W. 635.

CONSTITUTIONAL LAW — PERSONAL RIGHTS — LIBERTY TO CONTRACT — STATUTE RESTRICTING EMPLOYMENT OF ALIENS. — A statute required municipal corporations to employ on public works only United States citizens. NEW YORK LABOR LAW, Art. 2, § 14; LAWS OF 1909, c. 36. *Held*, that the statute is not a deprivation of rights to which aliens are entitled under the Fourteenth Amendment. *People v. Crane*, 52 N. Y. L. J. 2133, 2151. (N. Y. Ct. of App.).

For a criticism of the opposite result in the court below, see 28 HARV. L. REV. 498.

CONSTITUTIONAL LAW — POWERS OF THE EXECUTIVE — DELEGATION OF LEGISLATIVE POWER TO THE EXECUTIVE: IMPLIED AUTHORITY TO WITHDRAW PUBLIC LANDS FROM ENTRY. — Public lands which Congress had opened to occupation and settlement (ACT OF FEB. 11, 1897; 29 STAT. 526; R. S. 2319, 2329) were withdrawn from entry by an executive order of the President, without express authority from Congress. *Held*, that the withdrawal was in pursuance of an authority which could be implied from the long acquiescence of Congress. *United States v. Midwest Oil Co.*, U. S. Sup. Ct. Off., No. 278 (Feb. 23, 1915).

For a discussion of this case, see NOTES, p. 613.

CONSTRUCTIVE TRUSTS — LIABILITY OF INNOCENT PARTIES — ATTEMPTED RESERVATION OF EASEMENTS IN GRANT OF DOMINANT TENEMENT. — A grantor conveyed premises abutting on a street over which an elevated railroad had been built. The deed was recorded and expressly reserved the easement in the highway, and all present and future causes of action on account of the construction and continuance of the elevated structure. The grantee conveyed to a sub-grantee, and the grantor's executrix now joins the elevated company and the sub-grantee in a suit in equity to recover damages for the